

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

COMMIL USA, LLC

v.

CISCO SYSTEMS, INC., ET AL

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CIVIL ACTION NO. 2:07-CV-341 (CE)

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**Jury Trial Day Five  
May 17, 2010**

**OPEN: 9:24 a.m.**

**ADJOURN: 5:45 p.m.**

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ATTORNEYS FOR PLAINTIFF:

Richard "Dick" Sayles  
Eve Henson  
Chris Hogue  
Mark Werbner  
Mark Strachan

ATTORNEYS FOR DEFENDANTS:

Jeff Ostrow  
Otis Carroll  
Harrison "Buzz" Frahn  
Patrick King  
Mike Jones

LAW CLERK:

Jim Warriner

COURT REPORTER:

Shelly Holmes, CSR

COURTROOM DEPUTY:

Jan Lockhart

9:24 a.m. Court opened.

Mr. Frahn conducted cross-examination of Mr. McAlexander.

9:50 a.m. The Court gave the witness an instruction re answering question. Mr. Frahn continued his examination of Mr. McAlexander.

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10:12 a.m. Bench conference.

10:13 a.m. Mr. Frahn continued his examination of Mr. McAlexander.

10:13 a.m. Mr. Werbner requested that the Court give the jury an instruction. Mr. Frahn continued his examination of Mr. McAlexander.

10:22 a.m. Mr. Werbner objected to question. Court overruled. Mr. Frahn continued his examination of Mr. McAlexander.

10:42 a.m. Court instructed Mr. Frahn to stop being repetitive.

10:44 a.m. Mr. Werbner objected to question. Court overruled. Mr. Frahn continued his examination of Mr. McAlexander.

10:46 a.m. Bench conference.

10:49 a.m. Mr. Frahn continued his examination of Mr. McAlexander.

10:57 a.m. Mr. Werbner objected to question. Court sustained objection. Defendant's counsel given five minutes to finish.

11:00 a.m. Court adjourned until 11:15 a.m.

11:22 a.m. Court reconvened. Mr. Werbner conducted re-direct examination of Mr. McAlexander.

11:36 a.m. Mr. Sayles indicated the plaintiff rested.

11:37 a.m. The Court released the jury until 12:45 p.m.

11:38 a.m. The Court entertained Judgments as a Matter of Law. Mr. Sayles and Mr. Ostrow renewed the parties' Motions for Judgment as a Matter of Law. The Court denied the motions.

11:40 a.m. Next, the Court took up objections to the Jury Instructions and Verdict Form. Mr. Ostrow requested a moment to review the jury instructions. The Court took a 10-minute recess so that counsel could review the charge with their client.

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11:50 a.m. The Court heard the parties' objections to the Court's Jury Instructions and Verdict Form. Ms. Henson stated that the Plaintiff's attorney had no objections to the Court's Instructions and Verdict Form.

12:02 p.m. Lunch recess.

12:48 p.m. Court reconvened. Mr. Sayles conducted closing argument on behalf of Plaintiff.

1:08 p.m. Mr. Carroll conducted closing argument on behalf of Defendant.

1:48 p.m. Mr. Werbner conducted rebuttal closing argument on behalf of Plaintiff.

2:08 p.m. Court gave the jury its instructions.

2:37 p.m. Jury excused for deliberations.

4:26 p.m. Jury note #1 received at 4:20 p.m. Court responded. Jury Note filed.

5:39 p.m. Verdict received from jury. Court opened. All parties stood representing a unanimous verdict.

5:44 p.m. Counsel for the parties indicated there was nothing further. Court addressed counsel re trial.

5:45 p.m. Court adjourned.